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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR        | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|-----------------------------|---------------------|------------------|
| 09/786,041   | 05/14/2001  | Jose Manuel Alguera Gallego | FMW-EE-PCT-U        | 6842             |
| 28862  | 7590        | 07/01/2004                  | EXAMINER            |                  |
| HUDAK, SHUNK & FARINE, CO., L.P.A.<br>2020 FRONT STREET<br>SUITE 307<br>CUYAHOGA FALLS, OH 44221 |             |                             | MARSH, STEVEN M     |                  |
|  |             |                             | ART UNIT            | PAPER NUMBER     |
|  |             |                             | 3632                |                  |

DATE MAILED: 07/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/786,041

Applicant(s)

ALGUERA GALLEG0 ET AL.

Examiner

Steven M Marsh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 25 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

This is the fifth office action for U.S. Application 09/786,041 for a Supporting Device filed by Jose Manuel Alguera Gallego et al. on May 14, 2001.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 recites the limitation "the spindle penetration" in line 7. There is insufficient antecedent basis for this limitation in the claim.

#### ***Claim Rejections - 35 USC § 102***

Claims 1, 3-7, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 4,462,612 to Dreyer et al. Dreyer et al. discloses a supporting device for semi-trailers with an outer sleeve (1), a spindle (4) for receiving a telescopic inner sleeve (2), and a foot receiving device for attaching a support foot (10) connected to the bottom of the inner sleeve. The foot receiving device includes a component that occludes the inner sleeve (11, 12, and 14) with an opening for the spindle (the upper portion of 13 has an opening that partially contains the spindle), a bracing element (15 and part between) at its bottom end and located around an opening, and two opposing bearing points (points where

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12 and 10 meet) adapted to accommodate the support foot. The bracing element extends between the bearing points and includes ribs with a curved shape. The component has a plate (or cover 11) and there is a section of the plate located outside of the bracing rib.

***Allowable Subject Matter***

Claims 2, 8-12, and 14-20 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The prior art does not disclose a supporting device for semi-trailers with an outer sleeve, a spindle for a telescopic inner sleeve, and a foot receiving device for attaching a support foot, whereby the foot receiving device is connected to a bottom end of the inner sleeve and comprises component that occludes the inner sleeve, an opening for the spindle penetration, and an opening for the spindle penetration, and whereby at least one bracing element at a top or bottom end, and two opposing bearing points adapted to accommodate the support foot, and wherein the bracing element is arranged within the sleeve; a circumferential bearing rib engages the inner sleeve in a forced fit, is arranged on the top of the plate, and forms a bottom part that constitutes a cover at the bottom of the circumferential rib; or the component comprises a vertically arranged tube whose outside diameter is less than or equal to the inside diameter of the inner sleeve in at least one section.

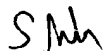
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***Response to Arguments***

Applicant's arguments filed September 22, 2003 have been fully considered but they are not persuasive. Applicant argues that Dreyer et al. does not disclose an opening for spindle penetration because the ground plate 5 is closed. However, there is an opening for receiving the inner sleeve (2) and a portion of the spindle (4) is located within that opening. Applicant also argues that element (15) of Dreyer et al. is not a "bracing element", but the examiner disagrees, as the element appears to contact the inner walls of 12.


***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Marsh whose telephone number is (703) 305-0098. The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30 PM. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.



Steven M. Marsh

June 26, 2004

  
**RAMON O. RAMIREZ**  
**PRIMARY EXAMINER**  
**ART UNIT-355 3632**